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Sutter County Pesticide Regulatory Program 2006/2007 Effectiveness Evaluation Report

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Performance Evaluation of the Sutter County Agricultural Commissioner's Pesticide Use Enforcement Program For the Fiscal Year 2006/2007

This report provides a performance evaluation of **Sutter** County Agricultural Commissioner's Office (CAC) pesticide use enforcement (PUE) program for fiscal year (FY) 2006/2007 (06/07). The assessment evaluates the performance of goals identified in the **Sutter** CAC's 06/07 enforcement work plan as well as the CAC program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Standards Compendium.

I. Summary Report of Core Program Elements

A) Restricted Materials Permitting (RMP and Site Monitoring Elements):

The restricted materials permitting program element was found to meet DPR standards and work plan goals for FY 06/07.

B) Compliance Monitoring (Inspections and Investigations Elements):

I. Investigations (Priority and Non-priority)

The **Sutter** CAC had no investigations during 06/07 that met U.S. EPA/DPR "priority episode" criteria; the county followed all applicable DPR policies and submission deadlines (including updates to their Enforcement Branch Liaison [EBL]) for each investigation. DPR Worker Health and Safety (WH&S) Branch tracks DPR assignment and CAC completion dates, reviews all priority and non-priority human health investigations WH&S assigned to counties in detail each year, and provides periodic feedback to the EBL regarding thoroughness and completeness. The EBL also reviewed a representative of both non-priority investigations (including DPR WH&S and other complaints) CAC staff conducted during 06/07.

CAC PUE staff attended the DPR Investigation Manual training in March 2006. DPR WH&S tracking records indicate CAC generally met DPR standards for timely completion and submission of DPR assigned investigations. CAC followed DPR policies in conducting and preparing reports of the investigations, including keeping the EBL informed of the progress of the higher profile investigations in a timely manner. The EBL and WH&S review of CAC investigations indicated CAC met DPR standards for overall thoroughness and completeness.

II. Inspections (Agricultural and Structural)

The EBL reviewed a representative sample of the approximately 570 agricultural pesticide use monitoring inspections (including Field Worker Safety, field fumigations, mix/load, etc.), 82 records inspections (including agricultural pest control business employee safety and/or business records and employer headquarter), and 45 structural pest control business pesticide use/records

inspections conducted by CAC staff as reported on the Pesticide Regulatory Activities Monthly Report (PRAMR) during 06/07.

The EBL also conducted structural and agricultural oversight inspections with various CAC PUE staff during 06/07. Based on the combination of EBL record reviews, field observations, interviews at various times with CAC field staff, and follow-up discussions with PUE managers, it was determined the CAC followed DPR policies and procedures regarding performing inspections with thoroughness and completeness, including associated follow-up activities.

Effectiveness Evaluation Findings: The CAC compliance monitoring program element for both inspections and investigations was found to meet DPR standards.

C) Enforcement Response (Enforcement and Compliance Action Elements):

The PRAMR includes categories for totals of both enforcement actions and civil penalty actions take during the fiscal year. The EBL reviewed a representative sample of the approximately 99 compliance action documents (Notice of Violation, and Warning Letters) that were issued during 06/07. The EBL also reviewed a representative sample of the 18 civil penalty actions issued by CAC during 06/07. The CAC met DPR standards in the issuance of compliance and enforcement actions.

While the CAC's office has met the standards in issuing enforcement actions, a concern arises over the handling of decisions for eight civil penalty actions. On August 22, 2007, four civil penalty actions (one originally opened in 2004 and three in 2005) were summarily dismissed due to the length time from the hearings. As of this report, four other actions (two hearings held in 2005 and the other two in 2006) remain open pending a Hearing Officer's decision. In all of these cases the Hearing Officer was (and is) an employee of the CAC's office, under which the CAC theoretically exercises control to have a timely and logical decision rendered based on the evidence presented. DPR recognizes that the Sutter CAC has taken steps to correct this concern by only using hearing officers not employed with the Sutter CAC's office and, whenever possible, using the services of hearing officers funded under the mill residual program.

Effectiveness Evaluation Findings: The CAC enforcement response program element met DPR standards.

D) Non-Core and Desirable Activities:

Other "desirable" ("non-core") program activities in 06/07 included holding outreach sessions for industry and employees in English, Punjabi and Spanish. The CAC's office administered a pesticide container-recycling program ("Kill the Bug Recycle the Jug") in select locations throughout the county, which resulted in over 18,000 pounds of pesticide containers being recycled in 2007.

The EBL reviewed representative records from their non-core program areas (licensing, registration, etc.) and interviewed PUE managers and support staff who processed such records during 06/07. The EBL found CAC met DPR standards for these non-core areas of the PUE program.

Summary Statement:

During 06/07 CAC staff spent approximately 13,211 licensed hours, compared 12,476 licensed hours last year. The CAC met DPR minimum standards for a CAC pesticide use enforcement program. No deficiencies were identified in the CAC's pesticide use enforcement program and the overall program is currently effective.

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